

**IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL.**

Writ Petition no. 1521 (SS) 2004.

1. Tota Ram S/o late Shiv Ram,
Resident of village Sema, Post Tuneta,
District Rudra Prayag.
2. Daya Ram S/o Late Thang Ram,
Resident of village Sema, Post Tuneta,
District Rudra Prayag.
3. Ghainanand S/o late Sri Baga Ram,
Resident of village Sema, Post Tuneta,
District Rudra Prayag.
4. Mahanand S/o late Heera Mani,
Resident of village Sirsaulia, Post Pandrola,
District Rudra Prayag.
5. Kripal Singh S/o late Badri Singh,
Resident of village Kanda, Post Kanda,
District Rudra Prayag. Petitioners.

Versus

1. State of Uttaranchal through Secretary,
Public Works Department, Dehradun,
2. Chief Engineer, Public Works Department, Dehradun,
3. Executive Engineer Construction Division,
P.W.D. Rudra Prayag, Distt. Rudra Prayag,
4. State of U.P. through Engineer-in-Chief,
P.W.D., U.P. Lucknow. Respondents.

None is for the petitioner.
And Sri Subhash Upadhyay, learned Counsel for State of Uttaranchal.
Smt. Beena Pandey, learned Standing counsel for State of U.P.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Subhash Upadhyay, learned Standing Counsel
for State of Uttaranchal/ respondent nos. 1 to 3 and Smt. Beena
Pandey, learned Standing Counsel for State of U.P. None is
present for the petitioner.

By the present petition, the petitioner has prayed for the following reliefs:-

- i) Issue a writ, order or direction in the nature of mandamus commanding/ directing the respondents to release the pension of the petitioners,
- ii) Issue a writ, order or direction in the nature of mandamus commanding/directing the respondents to give arrear with 12% interest from the date of their retirement,
- iii) Issue any suitable writ, order or direction, as this Hon'ble Court may deem fit and proper in the circumstances of the case be passed in favour of the petitioners,
- iv) Award the writ petition with cost.

Vide Court's order dated 21.12.2004, the means of the petitioner nos. 2,4 & 5, namely, Daya Ram, Mahanand and Kripal Singh have already been deleted from the array of parties, therefore the present writ petition is confined in regard to the petitioner nos. 1 & 3, namely, Tota Ram and Ghainanand only.

Submission of the petitioners is that petitioners were initially appointed under muster-roll basis as Class-IV employees in the year 1978 with the respondent's department and were taken in the work-charge establishment in the year 1985. On completion of the age of superannuation i.e. 58 years the petitioner no. 1 retired on 30.04.2001 and the petitioner no. 3 retired on 31st July 2001. Since the petitioners have served for 24 years, thus they were entitled to get pension, however the respondents have not granted the same to the petitioners.

A counter affidavit has been filed by the respondents. The stand taken by the respondents is that the work-charge employees of the Department are being regularised on the basis of posts available in regular establishment as per their seniority in the Circle Level.

It reveals from the counter affidavit that the petitioner nos. 1 & 3 were appointed under the regular establishment on regular post with effect from 13.11.1995, thus they have not completed 10 years' of service as regular employees, which is mandatory for granting pension, as such, they have not been granted pension. Nothing is illustrated against the said averments made in the counter affidavit. So far the other dues such as gratuity, G.P.F., encashment etc. are concerned, the same has been paid to the petitioners in accordance with the Rules.

Since the petitioners have not completed the qualifying service, which is required for being entitled an employee to get pension, hence they are not entitled to get pension.

In the circumstances mentioned above, the petition is devoid of merits, as such, is dismissed accordingly.

(M.M. Ghildiyal, J.)

November 30, 2006:

NCM: